

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

WESTGATE RESORTS LTD,

Plaintiff,

v.

Case No: 6:19-mc-34-Orl-31DCI

REED HEIN & ASSOCIATES, LLC,

Defendant.

ORDER

This Matter comes before the Court on the Objection to the Magistrate Judge's Order (Doc. 44) filed by Schroeter Goldmark & Bender ("SGB") (Doc. 45) and the Response (Doc. 50) filed by the Plaintiff. SGB objects to the Magistrate Judge's ruling on its motion for protective order and argues that the information identified in the privilege logs is indeed privileged.

A magistrate judge's non-dispositive order is reviewed for clear error. Fed. R. Civ. P.72(a); *Clark v. Rockhill Ins. Co.*, No. 6:18-cv-780-ORL-37-LRH, 2019 WL 6696394, at *1 (M.D. Fla. Dec. 9, 2019). The burden of establishing privilege belongs to the party asserting privilege. *In re Grand Jury Investigation*, 842 F.2d 1223, 1225 (11th Cir. 1987); *CSX Transp. Inc. v. Admiral Ins. Co.*, No. 93-132-CIV-J-10, 1995 WL 855421, at *1 (M.D. Fla. July 20, 1995).

The Magistrate Judge found that SGB failed to uphold its burden of establishing that any of the documents in SGB's privilege logs were work product or protected by attorney-client privilege.¹ Doc. 44 at 7. SGB objects to the order and argues that the ruling is clearly erroneous.

¹ The Magistrate Judge also addressed the merits, but the order made clear that SGB's failure to connect its arguments to the contents of its privilege log was "fatal." Doc. 44 at 7.

However, as the Magistrate Judge pointed out, there is nothing in SGB's motion for protective order that connects it to the documents included in the privilege logs produced by SGB. SGB argues extensively as to why categorical privilege logs were appropriate in the instant case. However, generalized arguments about why categorical summaries of privileged documents are appropriate cannot save SGB from its failure to articulate why those documents are indeed privileged. Conclusory statements are simply not enough. The Magistrate Judge's holding that SGB failed to demonstrate that the privilege was applicable to the documents in the logs was not clearly erroneous or contrary to law.

The Objection filed by SGB (Doc. 45) is **OVERRULED**, and the Magistrate Judge's order (Doc. 44) is **CONFIRMED**.

DONE and **ORDERED** in Chambers, Orlando, Florida on April 29, 2020.




GREGORY A. PRESNELL
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Party